

REMARKS

In the examination of applicant's parent case, the Examiner cited Beldham et Patent No. 6,240,983 and Vick Patent No. 6,059,038 against the claims, including claim 2. In this divisional, new claim 6 is somewhat similar to allowed claim 2 in the parent case, less the last two lines of the independent base claim 1, which read "said sleeve...end thereof". New claim 7 is similar to claim 6 with further features of the invention. And new claim 8 recites yet further features of the invention.

Applicant submits claims 6, 7 and 8 herein are clearly allowable over the Beldham et al and Vick patents.

Beldham discloses an anti-foam, splash proof venturi. It has a blind barrel and a resilient sleeve thereon of uniform cross-section for releasably sealing ports 22. The sleeve is of uniform wall thickness. Lateral, elongated slots 42 are shown.

The Vick patent comes from an entirely different field, i.e. drilling strings. Accordingly, it is clearly non-analogous. There is no reason for one concerned with the problems in air gap venturis for preventing water contamination to look to well drilling strings for solutions.

In addition, the operations of the Vick device are reversed for the claimed structure. A tube 30 is placed internally of an external tube to seal off ports from inflow into the external tube. It is designed to keep water out, not to keep water in. It does not flex outwardly, but inwardly. It is reduced in cross-section to "make it somewhat more flexible for ease in permitting inwardly directed fluid through the openings 26." (Column 4, lines 1-

3). The wall reduction in Vick is thus used to ease incoming fluid flow. This has nothing to do with the function of the claimed sleeve which facilitates expansion for water flow outwardly of the sleeve and enhances external sealing at the seal. Faced with the problems of facilitating water flow outwardly of the sleeve and with sleeve sealing on an internal seat, there is no reason for anyone in the air gap venturi field to look for solutions in discloses from the drilling string field to facilitate water flowing into the system.

In addition, there is no disclosure or suggestion in Vick that the structure or function of its sleeve, where the sleeve is compressed inwardly, would even work in the claimed structure where the sleeve is disposed on a barrel and is expanded.

Moreover, there is no disclosure of relief of sleeve wear and increase in its operative life through the use of cross-bars defining vents in the outer housing as claimed.

Taking all these circumstances into consideration, it is clear that the only way the attempted rejection in the parent case could be made is by way of hindsight. To substitute the Vick sleeve into the Beldham structure requires one to ignore the opposite functions of each patent and to assume that an expansible sleeve mounted internally of a housing would work as an externally mounted sleeve in conjunction with the defined vents. There is quite simply no reason or motivation in either of the two patents to make the combination attempted. Such combination could only be explained by a hindsight construction.

Applicant submits that any attempted combination of Beldham and Vick simply fails to meet the standards under which § 103 rejections of the Statute can be applied.

Accordingly, it is applicant's position that the Vick patent:

1. Is from a non-analogous field;
2. Discloses a function opposite to the structure here claimed;
3. Fails to teach the cited tube could work in the reversed flow claimed structural environment;
4. Fails to contain any motivation for the asserted combination; and
5. And perhaps most importantly fails to teach or suggest the use of support cross-bars in any vents for expansible sleeve support and sleeve life extensions.

Even if the Vick patent were considered analogous, and it clearly is not, the entirely opposite structural combination, function and environment in which it is used, with the lack of disclosure of cross-bars and of motivation provided by the patents, renders the asserted combination and rejection erroneous.

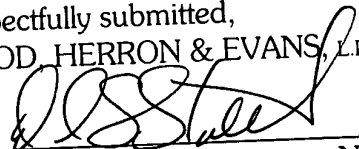
Claims 6, 7 and 8 are clearly allowable.

It would not have been obvious to form the Beldham slot 40 with cross-bars to make the housing stronger. That is not enough on which to base a rejection. A rejection under § 103 must be based on prior art, not on Examiner speculation. There is absolutely no basis for this rejection, and the rejection is clearly erroneous. Moreover, the cross-bars of the claim are not for housing strength, as asserted by the Examiner, but serve to provide support and useful life extension of the expansible sleeve.

The cross-bars 20 of the invention break up the larger windows into smaller openings or ports (specification, page 7, lines 1-2). This provides venting with smaller windows to reduce seal sleeve abrasion and increase sleeve life (specification page 13, lines 3-10; also page 3, lines 13-20).

Accordingly, as stated in the parent, the subject matter of claims 6, 7 and 8 are believed clearly allowable.

Respectfully submitted,
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